

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF THE SECRETARY

In the Matter of )

Tariffs Implementing )

Access Charge Reform )

CC Docket No. 97-250

REPLY COMMENTS OF THE SBC COMPANIES

I. INTRODUCTION

Pursuant to the Public Notice<sup>1</sup> released February 26, 1998 by the Federal Communications Commission (Commission), Southwestern Bell Telephone Company (SWBT), Pacific Bell, and Nevada Bell (collectively, the SBC Companies), hereby respond to the comments filed upon the MCI Emergency Petition for Prescription (MCI Petition). None of the comments justify that MCI's issues should be added to those before the Commission, including the access tariff issues subject to the Commission's Designation Order,<sup>2</sup> and the Petition should be rejected.

II. THE DESIGNATION ORDER CANNOT BE RECONSIDERED.

As stated in the SBC Companies' Comments, MCI's petition should be rejected outright as procedurally incorrect. None of the comments provide any basis upon which the Bureau

<sup>1</sup> Public Notice, MCI Telecommunications Corporation Petition the Commission for Prescription of Tariffs Implementing Access Charge Reform (DA 98-385) released February 26, 1998.

<sup>2</sup> Tariffs Implementing Access Charge Reform, CC Docket No. 97-250, Order Designating Issues for Investigation and Order on Reconsideration, (DA 98-151) (Com. Car. Bur., rel. January 28, 1998) (Designation Order).

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could reconsider its Designation Order.<sup>3</sup>

**III. THE COMMISSION SHOULD NOT MAKE THE PRESCRIPTIONS AS TO THE PICC REQUESTED BY VARIOUS IXC's.**

AT&T claims that the Commission should prescribe, as part of the pending investigation of the January 1, 1998 tariffs, a presubscribed interexchange carrier charge (PICC) rate of \$0.00 and until the LECs comply with the Commission's directives to provide auditable line count data, LECs should recover PICCs directly from end users.<sup>4</sup> C&W also complains about its internal difficulties in passing through the PICC to its customers.<sup>5</sup>

These complaints are indicative of the problems that interexchange carriers (IXCs) cause themselves by trying to recover the PICCs directly instead of absorbing the charge and building it into their rates as a cost of doing business. These IXCs want the Commission to eliminate the PICC in this proceeding. They ignore the fact that this proceeding is not the Access Charge Reform rulemaking proceeding where such rules could be changed, and the fact that the adoption of such an issue in this tariff proceeding would be illegitimate since the Designation Order cannot be reconsidered at this stage of the investigation. Thus, these protests must be dismissed.

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<sup>3</sup> See, Rural Telephone Coalition (RTC), at p. 3.

<sup>4</sup> AT&T at p. 4.

<sup>5</sup> Cable and Wireless (C&W) at pp. 3-4.

**IV. THE COMMISSION SHOULD IMMEDIATELY ADOPT A STANDARDIZED, VERIFIABLE DEFINITION OF PRIMARY AND NON-PRIMARY LINES.**

Bell Atlantic agrees with MCI that a uniform definition of non-primary lines is needed. Bell Atlantic stresses that the definition must be on a prospective basis.<sup>6</sup> The SBC Companies concur that a single definition is needed, and strongly agree that it should only be implemented on a prospective basis. The SBC Companies urge the Commission to adopt the definition they described in their Comments in this proceeding, and which they used in their ratemaking. A prospective-only application is appropriate since it is unreasonable to impose a new definition in this tariff proceeding. The rule change necessary to implement a new definition should be done through the rulemaking proceeding instituted for that purpose.

**V. THE COMMISSION SHOULD NOT FIND THAT THE SBC COMPANIES MUST PROVIDE THE IXCS ADDITIONAL INFORMATION TO VERIFY THEIR PICC BILLS.**

The SBC Companies have complied with the Commission's rules for assessing the PICC as well as the requirement to provide detailed PICC reports to be used by the IXCs for verification. The SBC Companies recently provided examples of the PICC Line Detail report in their Rebuttal in CC Docket No. 97-250 filed March 23, 1998.

The Commission should therefore dismiss the allegations of the IXC's that request additional information,<sup>7</sup> and should thus require the IXCs to submit payment for the PICC charges they have incurred to date and to adhere to normal billing reconciliation processes. The

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<sup>6</sup> Bell Atlantic at p. 11.

<sup>7</sup> Comptel at pp. 4-5; Worldcom at p. 4.

Commission should also dismiss Comptel's request to restrict the LEC's ability to bill PICCs more than one month in arrears as beyond the scope of this proceeding. Further, the Access Charge Reform Order was far-reaching in scope and the magnitude of change it created was and is administratively labor intensive. Billing changes alone required intensive man hours beyond the scope of normal day to day business and should be considered when determining the LEC's ability to bill beyond the previous month.

Comptel's charge that the ILECs have an incentive to provide inaccurate, untimely or unusable data to an IXC is wrong. Creating a situation which would encourage the IXCs to refuse payment of charges or dispute their payments would injure an ILEC's ability to generate revenue and recover costs. The Commission continues to have authority to monitor and remedy any such dispute in an appropriate proceeding. The Access Charge Reform Order did not relieve the Commission of this regulatory authority, and the Commission need not address Comptel's unjustified charge here.

**VI. THE COMMISSION SHOULD NOT DETERMINE THAT IXCS CAN CHANGE THE PIC OF THEIR CUSTOMERS WITHOUT THEIR CONSENT.**

Some of the commentators argue that tariff language for de-PICing should be required.<sup>8</sup> As the SBC Companies stated, MCI's request, like that of Sprint, really asks for permission to begin a process of "scramming." This is the process of getting rid of customers that an IXC does not want, either because the IXC, at its sole discretion, has determined that the customer does not have the usage necessary to allow that IXC to be profitable for that customer, or because of

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<sup>8</sup>Telecommunications Resellers Association (TRA) at p. 10, RCN Telecom Services at p. 9, Excel at p. 12.

payment or other problems in the IXC-customer relationship. As the SBC Companies have noted, the IXC cannot change the PIC for the end-user customer. The Commission should not condone "scramming" any more than "slamming."

**VII. THE COMMISSION SHOULD NOT PRESCRIBE TARIFF LANGUAGE REQUIRING ILECS TO PROVIDE IXCS INFORMATION SUPPORTING THE AMOUNT OF UNIVERSAL SERVICE SUBSIDIES INCLUDED IN ACCESS CHARGES.**

AT&T claims that ILECs should be required to identify explicitly how much of their USF assessment is flowed through to IXCs in the Common Line basket through establishing a new separate rate element in the Common Line basket.<sup>9</sup> Frontier agrees that the Commission should require a separate line item, but argues that ILEC universal service recovery should be in its own basket subject to zero bands.<sup>10</sup>

As the SBC Companies stated in their comments, they determined the USF allocations and provided an explanation in their Direct Case filed on February 27, 1998. Further detail on the amounts has already been provided in the SBC Companies' Description and Justification on Table 2 in Section 2.<sup>11</sup> Any additional prescriptive information is unnecessary and should be rejected. In any event, the creation of a new line item, and a change to the price cap methods, should only be undertaken in a proper rulemaking proceeding.

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<sup>9</sup> AT&T at p. 6.

<sup>10</sup> Frontier at p. 7.

<sup>11</sup> Nevada Bell Transmittal No. 232 as amended by No. 233, Pacific Bell Transmittal No. 1959, SWBT Transmittal No. 2678 as amended by No. 2679.

## **VIII. CONCLUSION**

For the foregoing reasons, MCI's request for prescription should be denied.

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**March 30, 1998**

**CERTIFICATE OF SERVICE**

I, Katie M. Turner, hereby certify that the foregoing, "REPLY COMMENTS OF SOUTHWESTERN BELL TELEPHONE COMPANY" in CC Docket No. 97-250 has been filed this 30th day of March, 1998 to the Parties of Record.

A handwritten signature in cursive script, reading "Katie M. Turner", written over a horizontal line.

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